



STATE OF SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS

PROFESSIONAL EMPLOYER ORGANIZATIONS

Mailing Address
P.O. Box 5757
Columbia, SC 29250-5757

S.C. Code Ann. § 40-68-10 et seq.
www.sccconsumer.gov
(803) 734-4200

Street Address
3600 Forest Drive
Columbia, SC 29204-4006

INITIAL APPLICATION FOR PROFESSIONAL EMPLOYER ORGANIZATION LICENSE

(2005-2007 LICENSING PERIOD)

(Complete all parts of this Application)

Please submit an original and one (1) copy of the Application in ring binders.
All information should be reduced to 8½ x 11 size and arranged in the order set forth in the Application form.

Name of PEO
or PEO Group: _____

Licenses for PEOs in South Carolina are issued on a two year cycle and are valid until the end of that two-year cycle. The latest cycle began on October 1, 2005 and will end September 30, 2007. Any license issued during this two-year period will expire and require renewal in September 2007. PEO Group licenses may be issued for a group of at least two (2) but no more than five (5) companies that are majority-owned by the same entity.

The application fee of Two Hundred Dollars (\$200.00) for each PEO and Three Hundred Dollars (\$300.00) for each PEO Group must accompany each application and is NOT refundable. **Applications will not be processed without the required applications fees.** After review and approval of an application, the Department will request and applicants must remit the required license fees set forth below before a license will be issued.

From October 2005 through September 2006, the license fee for both South Carolina resident PEOs and nonresident PEOs is Two Thousand Dollars (\$2,000.00) for each PEO and Four Thousand Dollars (\$4,000.00) for each PEO Group. However, if the state of residency of a nonresident PEO imposes a greater fee for licensing nonresident applicants, the greater fee will be assessed. In that event, the maximum fee that may be charged a nonresident PEO is Five Thousand Dollars (\$5,000.00) for a nonresident PEO and Ten Thousand Dollars (\$10,000.00) for a nonresident PEO Group.

From October 2006 through September 2007, the license fee for both South Carolina resident PEOs and nonresident PEOs is One Thousand Dollars (\$1,000.00) for each PEO and Three Thousand Five Hundred Dollars (\$3,500.00) for each PEO Group. However, if the state of residency of a nonresident PEO imposes a greater fee for licensing nonresident applicants, the greater fee will be assessed. In that event, the maximum fee that may be charged a nonresident PEO is Two Thousand Five Hundred Dollars (\$2,500.00) for a nonresident PEO and Five Thousand Dollars (\$5,000.00) for a nonresident PEO Group.

Please make all checks payable to the **South Carolina Department of Consumer Affairs.**

All documentation submitted MUST be in the legal name of the applicant. A licensee may not conduct business under a name other than that specified in the license, and may not conduct business under more than one name unless it has obtained a separate license for each name.

PURSUANT TO THE PROVISIONS OF SOUTH CAROLINA CODE § 40-68-10 ET. SEQ. (2001) AS AMENDED, THE UNDERSIGNED HEREBY MAKES THE FOLLOWING STATEMENTS FOR THE PURPOSE OF OBTAINING A LICENSE TO CONDUCT BUSINESS AS A PROFESSIONAL EMPLOYER ORGANIZATION (PEO) IN THE STATE OF SOUTH CAROLINA:

Please indicate the type of license: ☐ PEO License ☐ PEO Group License

Name of PEO
or PEO Group: _____

Date of Organization: _____ Unemployment
Compensation Account#: _____

Federal ID #: _____ State ID #(Withholding): _____

Business
Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Web site: _____

Name of Primary
Contact Person: _____

Business Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax No.: _____

E-Mail Address: _____

Name of Secondary
Contact Person: _____

Business Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax No.: _____

E-Mail Address: _____

ORGANIZATIONAL STRUCTURE

- ☐ Corporation ☐ Limited Liability Company
☐ General Partnership ☐ Limited Partnership ☐ Sole Proprietorship
☐ Other (specify) _____

1. If applicant is a corporation, provide a copy of company's filed Articles of Incorporation. If other than corporation, provide other appropriate documents to show when and by whom the business was organized.
2. Please provide an organizational chart of the applicant.
3. Is the applicant company a part of a group of PEO companies of no more than five (5) companies which are under common control?
☐ Yes ☐ No
4. If yes, applicant must file a ***Cross Guarantee Form for Professional Employer Organization Group License (Form PEO-12)***.
5. Please provide a copy of the relevant certificate issued by the South Carolina Secretary of State demonstrating the applicant's authority to conduct business in South Carolina. If the applicant is not already appropriately registered to do business in South Carolina, the necessary forms and other information can be found on the South Carolina Secretary of State's Web site at www.scsos.com.
6. Please provide the contact information requested below for the applicant's current agent for service of process as registered with the South Carolina Secretary of State's office.

Name of Current
South Carolina
Agent for Service
of Process:

Business Address:

City: _____ State: _____ Zip: _____

Telephone No.: _____ Fax No.: _____

E-Mail Address: _____

CONTROLLING PERSONS, OFFICERS AND DIRECTORS

IMPORTANT: Fill out each section completely. All persons who qualify as a controlling person pursuant to South Carolina Code § 40-68-10 (4), as amended, must be listed below. Each licensed PEO or PEO Group must have at least one properly licensed controlling person.

EACH PROPOSED CONTROLLING PERSON NOT PREVIOUSLY LICENSED IN SOUTH CAROLINA MUST EACH SUBMIT A ***CONTROLLING PERSON APPLICATION (FORM PEO-03)*** ALONG WITH A \$100 APPLICATION FEE.

Corporations: If the applicant is owned by another corporate entity, please list any officers of the parent firm and the ultimate owners (natural persons) in the tables below that qualify as controlling persons, as defined in South Carolina Code § 40-68-10 (4), and attach an organizational chart.

Controlling Persons Based on Ownership:

Please list the names of all persons or entities who directly or indirectly own, control, hold with the power to vote, or hold proxies representing ten percent (10%) or more of the voting securities of the Applicant. If necessary, attach additional sheet(s) providing the same information requested below.

Full Name And Address	Date of Birth (mm-dd-yyyy)	% Ownership	SSN #/FEIN *

***** **Compliance Note:** The Family Independence Act of 1995 requires the South Carolina Department of Social Services – Child Enforcement Division (Division) to operate a license revocation program for the purpose of enforcing and establishing child support. In accordance with this Act, South Carolina law (§ 20-7-944) requires that all licensing entities submit to the Division licensee data for all new and renewal licenses issued. Therefore, identifying information (i.e., name, social security number and date of birth, etc.) for all controlling persons licensed with this renewal application will be forwarded to the Division upon the issuance of each controlling person's license. Personal information will not be used for any other purpose and is not subject to disclosure under the South Carolina Freedom of Information Act. South Carolina Code § 30-4-10 et seq.

Officers, Directors and Controlling Persons Based on Position:

Please list the names and titles/positions of all officers, directors and any person who is a controlling person based on their position with the Applicant. If necessary, attach additional sheet(s) providing the same information requested below.

Full Name And Address	Title/Position	Date of Birth (mm-dd-yyyy)	SSN #

APPLICANT BUSINESS HISTORY

If any question is answered "Yes", please attach separate page(s) detailing the circumstances (including any applicable details such as state, license number, dates, etc.)

1. Have any of the Applicant's proposed controlling persons been convicted or found guilty of any misdemeanors or felonies (with the exception of minor traffic violations) in any jurisdiction or territory in the United States?

☐

Yes

☐

No

2. Has either the Applicant or any of its proposed controlling persons been refused a license, registration, or certification as a PEO, PEO group, or controlling person, or renewal thereof, in any jurisdiction or territory in the United States?

☐

Yes

☐

No

3. Has either the Applicant or any of its proposed controlling persons had a license revoked, suspended, or otherwise acted against (including probation, fine, or reprimand) in a disciplinary action in any jurisdiction or territory in the United States?

☐

Yes

☐

No

4. Has either the Applicant or any of its proposed controlling persons been involved in or owned an interest in a PEO or PEO group that has been adjudicated bankrupt, filed proceedings under the Bankruptcy Act, or has otherwise closed due to insolvency?

☐

Yes

☐

No

5. Are any of the licenses, registrations, or certifications of the Applicant or any of its proposed controlling persons currently under investigation or currently pending disciplinary action in any jurisdiction or territory in the United States?

☐

Yes

☐

No

6. Has the Applicant or any of its proposed controlling persons ever failed to satisfy any tax liabilities?

☐

Yes

☐

No

7. Has the Applicant or any of its proposed controlling persons ever had a lien or levy placed against it/them?

☐

Yes

☐

No

8. Has the Applicant or any of its proposed controlling persons been the subject of an indictment or a "cease and desist" order in any jurisdiction or territory in the United States?

☐ Yes ☐ No

9. Has the Applicant or any of its proposed controlling persons been the subject of any state or federal government investigation or audit regarding the payment of wages or taxes; the funding or administration of any employee benefit plan or workers' compensation program; employment practices; licensing or registration; or any other matter arising out of a complaint filed by an employee, client, insurer, regulator or another PEO?

☐ Yes ☐ No

10. Has the Applicant or any of its proposed controlling persons ever been the subject of a governmental investigation?

☐ Yes ☐ No

11. Is the Applicant or any of its proposed controlling persons currently disputing any material obligations to an insurance carrier, benefit administrator or trust, or taxing authority?

☐ Yes ☐ No

12. Is there any litigation or legal proceeding currently pending or threatened against the Applicant or any of its proposed controlling persons in any jurisdiction or territory in the United States?

☐ Yes ☐ No

13. Is the Applicant delinquent, as of the date of application, with respect to any of its obligations of payroll, payroll related taxes, workers' compensation insurance or employee benefits in any jurisdiction or territory in the United States?

☐ Yes ☐ No

SOUTH CAROLINA OPERATIONS

Provide a list of all offices, including branch offices, located in South Carolina:

☐

Check if the Applicant has no South Carolina offices.

Address	Contact Person	Telephone #	E-mail address

SOUTH CAROLINA CLIENT COMPANIES

Provide a list of all client companies in South Carolina. This information should be provided using either the ***Client Company List (Form PEO-07)*** or in a report that you generate provided, however, that all of the information requested in the table below is included in the separate report.

Client Company			FEIN		
Contact Person					
Mailing Address					
City			State		Zip
Telephone Number			Fax Number		
Number of Assigned Employees		Date Relationship Initiated		Workers' Compensation Business Classification Code	
Workers' Compensation Carrier/Policy #			Health Insurance Carrier/Policy #		

PRIOR OPERATION IN SOUTH CAROLINA

1. Has the applicant commenced operations in South Carolina prior to obtaining a license? ☐ Yes ☐ No
2. If yes, on what date did applicant commence operations? _____
3. If yes, what is dollar amount of applicant's current gross South Carolina payroll? _____
4. If yes, please provide Employment Tax Compliance Letters as described below.

South Carolina law requires PEO licensees to assume responsibility for the payment of payroll taxes and for collection of taxes from payroll on assigned employees. In order to confirm that this obligation has been satisfied, the Department requires applicants for PEO licenses to obtain letters of good standing or employment tax compliance letters prior to issuing a license to provide PEO services in the State of South Carolina. Applicants should request the "letter of good standing" from the Internal Revenue Service and the South Carolina Department of Revenue. **The letters should be requested from the following addresses for payroll periods ending no earlier than sixty (60) days prior to the date of the filing of this application.**

Internal Revenue Service
Field Assistance – MDP32
1835 Assembly Street
Columbia, SC 29201

S.C. Department of Revenue
Tax Compliance Officer
Columbia, SC 29214-0027

In your letter to the IRS, indicate that you are requesting compliance status on employment tax return Forms 941 and 940 and provide your federal ID number. Your letter of request to the SCDOR must indicate the PEO's South Carolina withholding account number.

The taxing authorities will mail the compliance letters back to you. **Applicants should forward the ORIGINAL letter from those agencies to the Department for inclusion with their application for licensure.**

By the filing of this application with the S.C. Department of Consumer Affairs, the applicant specifically authorizes the release of any information by the South Carolina Employment Security Commission, the South Carolina Department of Revenue, and the Internal Revenue Service to the S.C. Department of Consumer Affairs regarding any payroll tax matters referenced herein, and holds those entities harmless from any consequences of such release. A photocopy of this authorization shall be as valid as the original.

INSURANCE BENEFITS

1. Will any of the following insurance benefits be provided to any leased employees in the State of South Carolina?

Workers' Compensation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Health/Medical/Dental	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Life	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Disability	<input type="checkbox"/> Yes	<input type="checkbox"/> No

2. If the answer to any of the above is yes, Applicant must provide:
- (a) a new **Health Insurance Affidavit of Insurance (Form PEO-08)** completed by each of the Applicant's current Insurance Carrier(s);
 - (b) a new **Workers' Compensation Affidavit of Insurance (Form PEO-09)** completed by each of the Applicant's current Insurance Carrier(s);
 - (c) proof of workers' compensation insurance with an **ORIGINAL** Certificate of Insurance from a carrier properly licensed by the South Carolina Department of Insurance. The Certificate must list the S.C. Department of Consumer Affairs as Certificate Holder and provide 30 days notice of cancellation;
 - (d) a new **Insurance Certification (Form PEO-10)**, which must be signed by a controlling person.
 - (e) a completed **Insurance Schedule (Form PEO-11)** showing all current policy information;
 - (f) a copy of each benefit plan or policy, including the declaration page;
 - (g) a copy of all insurance benefits information that is provided to leased employees for all benefit plans;
3. Are the premiums on all policies you listed on the **Insurance Schedule (Form PEO-11)** due as of the date of this Application paid in full?
- ☐ Yes ☐ No
4. If the answer to the previous question is NO, are the unpaid amounts in dispute with your insurance carrier?
- ☐ Yes ☐ No
5. If any amounts are in dispute, please list the name of the carrier(s), the policy number(s), the period(s) covered, and the amount(s) in dispute.

NOTICE

MULTIPLE COORDINATED POLICIES. The South Carolina Department of Insurance has adopted a ruling by the NCCI that requires Professional Employer Organizations (PEOs) in the assigned risk market in South Carolina to operate under Multiple Coordinated Policies (MCP) for workers' compensation insurance coverage. These policies require a PEO to apply for a policy in its own name for direct employees. The rule then requires the PEO to apply for coverage for each of its clients to cover employees leased to those clients. Policies are applied for in the client company name as the insured. The policies are then "coordinated" and the leasing company is billed for premiums with copies sent to client companies. If you are currently operating under a non-multiple coordinated policy, please contact your insurance carrier regarding this ruling. A copy of this ruling is available on our Web site at www.scconsumer.gov.

6. South Carolina Code § 40-68-70 (B) requires PEOs that provide workers' compensation insurance to client companies, before executing a service contract and on an annual basis, to conduct a good faith investigation to determine if the client company engages any nonassigned employees, including those considered employees under Title 42, in any part of the client company's trade, business, or occupation. The law also requires that upon a determination that a client company does include nonassigned employees, the service contract must require the client company to secure and maintain workers' compensation insurance. Have you conducted such an investigation with regard to each of your client companies within the past year?

☐

Yes

☐

No

7. South Carolina Code § 40-68-70 (D) requires a PEO to report the information derived from these investigations to its workers' compensation carrier. Have you made such reports in the past year?

☐

Yes

☐

No

FINANCIAL STATEMENTS

Applicants must attach copies of the company's Audited Financial Statements for the two (2) most recent accounting periods preceding this application. The most recent statement must be for annual period ending no earlier than 180 days before the date of this application, and shall be attested to by an independent Certified Public Accountant. If the most recent audited financial statement currently available is dated more than 180 days before the date of this application, the applicant must certify to the Department that there have been no material adverse changes in the financial position of the company since the date of the last financial statements, and shall provide a copy of the next financial statement as soon as it becomes available.

The financial statements must include a statement of income and retained earnings, balance sheet, statement of changes in financial position (cash flow), and applicable footnotes. The financial statements also must reflect positive working capital and positive tangible net worth. The following items may be used to cover any deficit in net worth revealed by the most current financial statements in an amount sufficient to cover the deficiency: infusion of capital, an acceptable bank letter of credit, mortgages, a promissory note supported by collateral, or a guarantee where the guarantor can satisfy the S.C. Department of Consumer Affairs that the guarantor has sufficient assets to satisfy the obligation of the guarantee.

Information supplied regarding net worth is proprietary and confidential and is exempt from disclosure to third parties.

NOTE: All applicants must demonstrate a net worth of at least \$50,000.00. Pursuant to South Carolina Code § 40-68-40 (E), deficiencies in the net worth requirement as demonstrated by the Audited or Reviewed Financial Statements may be satisfied through guarantees, letters of credit, or other security acceptable to the Department in a combined total amount of at least \$50,000.00. A guaranty is not acceptable unless the Applicant submits sufficient evidence to satisfy the Department that the guarantor has adequate resources to satisfy the obligations of the guaranty.

Date of Financial Statement:

Pursuant to Regulation 28-940, quarterly reports for financial income statements and balance sheets will be due for each quarter (3/31, 6/30/, 9/30 and 12/31) within 75 days after the end of each quarter on a going forward basis after issuance of a license. In these reports, licensees must demonstrate that premiums for health insurance, life insurance, workers' compensation and other employee benefits have been paid to the proper payee; that working capital is in a positive position, and; that federal, state, and local payroll taxes have been paid as required by the regulations of each taxing authority.

SERVICE AGREEMENT

All service agreements must comply with the provisions of South Carolina Code § 40-68-70 (A). Please submit a copy of your master service agreement, plus copies of all agreements with client companies which differ from that master agreement in any substantive respect, highlighting the differences, e.g., if any of the PEO's client companies elect to obtain and be responsible for their own workers' compensation or health insurance, the service agreement with that client must clearly demonstrate that intent.

In addition, South Carolina law requires an applicant for a PEO license to provide a written explanation of this agreement to each assigned employee by delivering it to the employee personally within ten (10) days after executing the agreement. The explanation must state, substantially, the terms of the agreement between the licensee and the client company and include the same notice that is required to be posted in the client company's place of business by South Carolina § 40-68-60 (C). **Please provide a copy of this written explanation as an attachment to your application.**

All service agreements and the written explanation given to assigned employees must listed the South Carolina Department of Consumer Affairs as the PEO's regulator and include the contact information (address, phone, Web site)for the Department contained in the box at the top of the first page of this application form.

CONTINUING EDUCATION

Pursuant to S.C. Code Ann. Section 40-68-45, effective for license years beginning after September 30, 2005, key management personnel of all licensees must complete at least eight (8) hours of continuing professional education annually. If the licensee (PEO) is a sole proprietorship or partnership, key personnel means any controlling person. If the licensee is a corporation, key personnel means any person who both directs or causes the direction of the management of a company operating in South Carolina and is directly responsible for the day-to-day management of the company's operations in South Carolina.

Using this criteria, please list below the information regarding key management personnel in your company that will be required to meet the continuing professional education requirement. Use additional copies of this page if necessary.

Employee Name		Employee Name	
Business Address		Business Address	
Position/Title		Position/Title	
Telephone		Telephone	
E-Mail		E-Mail	

Employee Name		Employee Name	
Business Address		Business Address	
Position/Title		Position/Title	
Telephone		Telephone	
E-Mail		E-Mail	

AFFIDAVIT OF APPLICANT

I swear or affirm and certify that I have completed and/or reviewed all information on this form and submitted with this Application, and to the best of my knowledge and belief, all information contained herein is true, correct and complete; and that there are no material omissions of fact which would have a bearing upon the South Carolina Department of Consumer Affairs' decision to grant the requested license. I further certify that I understand that giving false information constitutes cause for denial or revocation of the application and subjects me to criminal prosecution for perjury. I acknowledge that I have a duty and agree to update and correct this information as it changes.

Signature

Date

Type or Print your Name and Title

SWORN TO AND SUBSCRIBED before me

this _____ day of _____, 20_____

(SEAL)

Notary Public For _____

My Commission Expires:

The completed Application should be submitted to:

South Carolina Department of Consumer Affairs
Attn: PEO Licensing and Regulation
P.O. Box 5757
Columbia, SC 29250-5757

Do not fax this form. An original, signed and notarized form is required.

The South Carolina Freedom of Information Act may require the S.C. Department of Consumer Affairs to release this form as a public record; however personal identifying information will be released only if required by law.